

**UNITED STATES COURT OF APPEALS**  
**FOR THE TENTH CIRCUIT**

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**MAY 30 2001**

**PATRICK FISHER**  
Clerk

KENNETH L. HUFFMAN;  
RICHARD T. HUFFMAN;  
KAYLEEN H. PUGH, individually,  
and as Trust Beneficiaries,

Plaintiffs,

and

NELLIE D. HUFFMAN  
INTERVIVOS TRUST,

Plaintiff-Appellant,

v.

RIVERTON CITY CORPORATION;  
DAVID MURPHY, individually, and  
in his official capacity as Riverton  
City Engineer; WILLIAM WAY,  
individually, and in his official  
capacity as Riverton City  
Administrator; KEN LEETHAM,  
individually, and in his official  
capacity as Assistant City  
Administrator, Riverton City;  
BRENT BENNETT, individually, and  
in his official capacity as Riverton  
City Public Works Director; SCOTT  
HILL, individually, and in his official  
capacity as Riverton City Water  
Director; SANDRA LLOYD,

No. 99-4057  
(D.C. No. 97-CV-37-C)  
(D. Utah)

individually, and in her official  
capacity as Riverton City Mayor,

Defendants - Appellees.

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**ORDER AND JUDGMENT** \*

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Before **EBEL**, **ANDERSON**, and **KELLY**, Circuit Judges.

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After examining the briefs and appellate record, this panel has determined unanimously to grant the parties' request for a decision on the briefs without oral argument. See Fed. R. App. P. 34(f); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

Plaintiff Nellie D. Huffman Intervivos Trust purports to appeal from two orders of the district court that denied its motion for attorney's fees following its acceptance of defendants' offer of judgment before trial. Defendants challenge our jurisdiction over this appeal. Plaintiff maintains that its appeal is from the

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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

district court's February 1, 1999 and March 11, 1999<sup>1</sup> orders denying attorney's fees, and its March 22, 1999 notice of appeal confers jurisdiction on this court. Defendants argue that plaintiff failed to timely file a supplemental notice of appeal after the district court entered its final order denying attorney's fees on November 30, 1999, and that plaintiff's earlier notice of appeal was fatally premature.

We agree with defendants that the district court's February 1, 1999 and March 11, 1999 orders are not final on the collateral issue of attorney's fees. As a result, plaintiff's failure to timely file a supplemental notice of appeal after the district court entered its final order denying attorney's fees on November 30, 1999, leaves us without jurisdiction to consider plaintiff's appeal on that issue. EEOC v. Wal-Mart Stores, Inc., 187 F.3d 1241, 1250 (10th Cir. 1999).

DISMISSED.

Entered for the Court

David M. Ebel  
Circuit Judge

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<sup>1</sup> The district court's order is dated March 10, but was filed on March 11, 1999.